

## **REMARKS**

### **Office Action**

In the Office Action dated November 24, 2003, the drawings were objected to under 37 C.F.R. 1.83(a). Claim 18 was rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 2, 4-7, 19, 20, 23 and 25 were rejected under 35 U.S.C. § 102(e) as being anticipated by the Stephens et al. 6,436,160 patent (Stephens). Claims 1, 2, 4, 6, 14-16 and 19 were rejected under 35 U.S.C. § 102(e) as being anticipated by the Sepke et al. 6,558,453 patent (Sepke). Claims 14 and 15 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.K. Published Patent Application GB 2 321 181 to Kilstrom (Kilstrom). Claim 21 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Stephens. Claims 3, 17, 22, 24, 26 and 34 were objected to as being dependent on a rejected base claim. It was stated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 18 was stated to be allowable if rewritten to overcome the Section 112 rejections and to include all of the limitations of the base claim and any intervening claims. Claims 8-13, 27-31 and 35-43 were allowed. For the reasons outlined in detail below, it is respectfully submitted that all of the pending claims are in condition for allowance over the art of record.

### **Drawings**

It was stated in the Office Action that the drawings were objected to because the subject matter of claim 38 is not illustrated. More particularly, it was stated that the conversion port in the rear wall of the dirt cup must be shown or the feature cancelled from the claims. It was stated that a proposed drawing correction or corrected drawings are required in reply to the Office Action to avoid abandonment of the application.

However, it is respectfully submitted that a conversion port located in the rear wall of the dirt cup is already illustrated in Figure 7 of the drawings. It is identified by the numeral 133 in Figure 7. In this regard, attention should be directed to the specification on page 14, lines 16-19. It is there stated:

“While the deflector 133 is shown on the front wall 60 of the dirt cup 18 in Figure 6, it may be located, for example, on the rear wall 80 of the dirt cup 84 (as shown in hidden form in Figure 7), or on a top wall 100 of the filter assembly 90.”

Therefore, it is respectfully submitted that the conversion port feature is adequately disclosed already both in the drawings and in the specification. Accordingly, it is believed that no drawing correction is necessary.

### **Section 112 Rejection**

Claim 18 was rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. It was stated that claim 18, which depends on claim 14, recites a secondary filter, whereas claim 14 does not recite a first filter. In response, applicant has amended claim 18 to recite that the filter assembly comprises a primary filter and that the vacuum cleaner further comprises a secondary filter. Therefore, it is respectfully submitted that the Section 112 rejection of claim 18 should now be withdrawn.

### **Claims 1-7 and 44**

It was stated in the Office Action in paragraph 17 on page 8 that dependent claim 3 was merely objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has added the recitation of claim 3 reciting that the filter assembly includes a top wall which cooperates with at least one wall of the dirt cup to seal at least a portion of the cyclonic airflow chamber, to claim 1. It is respectfully submitted that neither of the applied references to Stephens and Sepke teach an upright vacuum cleaner with a dirt cup assembly wherein a filter assembly includes a top wall that cooperates with at least one wall of the dirt cup assembly to seal at least a portion of the cyclonic airflow chamber which is defined in the dirt cup assembly. It is therefore respectfully submitted that claim 1 as amended patentably defines over the applied references to Stephens and Sepke. Moreover, Kilstrom neither teaches nor discloses the upright vacuum cleaner recited in claim 1. As such, it is respectfully submitted that claim 1 patentably defines over all of the applied references, as well as the remainder of the cited art.

Dependent claims 2 and 4 - 7 are also believed to patentably define over the applied references and the remainder of the art as they merely further patentably define the detailed subject matter of their parent claim. In addition, it is noted that applicant has made a minor amendment to claim 4 and some wording changes to claim 7.

In addition to the foregoing, applicant herewith submits a new dependent claim 44 which recites that the filter assembly top wall comprises a handle. Such handle is illustrated in Figure 4 and identified by the numeral 102. It is believed that claim 44 is also patentable over the art of record.

### **Claims 8 - 13**

The allowance of claims 8-13 is gratefully acknowledged.

### **Claims 14 - 18 and 45 - 48**

It was stated in paragraph 17, on page 8, that claim 17 was objected to as being dependent on a rejected base claim but would be allowed if rewritten in independent form including the limitations of the base claim and any intervening claims. In reply, applicant has added the subject matter of claims 15, 16 and 17 to claim 14. At the same time, applicant has removed the limitation of the dirt cup handle from claim 14 and placed that in a new dependent claim 45. It is respectfully submitted that claim 14 as so amended patentably defines over the applied Kilstrom reference, as well as the Sepke reference. In addition, it is respectfully submitted that claim 14 as so amended defines over the remainder of the prior art. As such, claim 14 is in condition for allowance.

As mentioned, applicant has amended claim 18 to overcome the indefiniteness rejection raised thereagainst.

In addition, applicant herewith submits new dependent claims 45-48. These claims are all ultimately dependent from claim 14. As such, it is believed that these claims are also patentable over the art of record.

### **Claims 19 - 26**

It was stated in the Office Action that claim 22 was merely objected to as being dependent from its rejected base claim, claim 19. In reply, applicant has added the subject matter of claim 22 to claim 19. As such, it is respectfully submitted that claim 19 is now in condition for allowance over the art of record.

Moreover, dependent claims 20, 21 and 23 - 26 are also believed to be in condition for allowance, as they all ultimately depend from claim 19. It is noted that some wording changes were made to claim 24.

### **Claims 27 - 31**

The allowance of claims 27 - 31 is gratefully acknowledged.

### **Claims 32 - 34**

Applicant has cancelled claims 32-34 without prejudice.

### **Claims 35 - 43**

The allowance of claims 35 - 43 is gratefully acknowledged.

### **Claims 49 - 53**

Applicant herewith submits new independent claim 49. Claim 49 recites a stick vacuum cleaner comprising a floor nozzle having a suction inlet, a handle assembly

pivotally mounted on the floor nozzle with the handle assembly comprising a first portion defining a motor chamber, a motor assembly located in the motor chamber and a second portion defining a socket. A dirt cup is selectively positioned in the socket. The dirt cup includes an inlet to a dirt separation chamber, at least partially defined in the dirt cup, and an outlet from the dirt separation chamber. The outlet communicates with the motor assembly. A conversion port is defined on a wall of the dirt cup for above the floor cleaning.


It is respectfully submitted that claim 49 patentably defines over the art of record. More particularly, none of the three applied references, namely, Stephens, Sepke or Kilstrom teaches or discloses a stick vacuum cleaner having a conversion port defined in a wall of the dirt cup. Neither does the remainder of the cited art. Accordingly, it is respectfully submitted that claim 49 is in condition for allowance over the art of record.

Applicant herewith adds new dependent claims 50 - 53. These claims depend at least ultimately from claim 49. It is respectfully submitted that claims 50 - 53 are also in condition for allowance over the art of record.

In view of the foregoing, it is respectfully submitted that pending independent claim 1 and its dependent claims 2, 4 - 7 and 44, independent claim 8 and its dependent claims 9 - 13, independent claim 14 and its dependent claims 18 and 45 - 48, independent claim 19 and its dependent claims 20, 21 and 23 - 26, independent claim 27 and its dependent claims 28 - 31, independent claim 35 and its dependent claims 36 - 43 and independent claim 49 and its dependent claims 50 - 53 patentably define over the art of record and are in condition for allowance. Such allowance is earnestly solicited.

Respectfully submitted,

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